IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No.8163 of **200**3

Shivsharan Kallappa Muglikar ..Petitioner

vs

The Supdt. Dist. Probation
and After care Association & ors. ..Respondents

Mr. S.G. Kudle for the petitioner.
Mr.A.B. Tajane with Mr. G.S.Godbole for respondent Nos.1 and 2
Mr.C.R.Sonawane, Asst.Govt. Pleader, for respondent No 3.

CORAM: V.G.PALSHIKAR,Acg C.J.
,
& V.M.KANADE, J.

DATE: JULY 26, 2006.

P.C.:-

By this petition, the petitioner has prayed for a direction to the respondents to grant him regular payscale for the period between 24.ll.1984 to 6.10.1986. The petitioner has also prayed that artificial break in service created by the respondents be condoned and the petitioner be granted continuity in service right from 14.11.1984. The respondents have resisted this claim by filing affidavit in reply. It is contended that for the first two years, for which payscale is now claimed, the petitioner

was engaged on daily wages basis and, therefore, the claim of the petitinoer cannot be granted.

2. It is also contended that the claim of the petitioner for grant of payscale for the period between 14.11.1984 and 6.10.1986 is stayed. Even common law suit for recovery of this sum would be hopelessly barred by limitation and in such a situation exercise of writ jurisdiction should be avoided.

3. Heard the learned counsel for the parties. Perused the record. The petitioner himself has candidly admitted in the communication dated 2nd July, 2002 that he worked as a daily wage earner during the relevant period. After 6.10.1986, the petitioner has been given regular scale and is enjoying the same even today. In fact the claim of the petitinoer is for grant of payscale for a period during which he agreed to work on daily wage. In our opinion, the claim of the petitioner is barred by gross delay and laches. The respondents have clearly contended that the petition itself is not tenable and even if the suit would have been barred by limitation. This position is factually and legally correct. No reason whatsoever has been given

by the petitinoer which can be accepted as plausible reason for not moving the court of law within a reasonable time for denial of the payscale , which according to him was payable. We see no merit in this petition. There is no reason why the claim should be granted after almost 20 years. Factually also, the petitioner having admitted his appointment on daily wages, cannot now claim grant of payscale.

4. We, however, make it clear that as and when the question of counting his service as a daily wage worker for continuity is concerned, comes up, petitioner shall be at liberty to agitate this aspect. With these observations, petition is dismissed. There shall be no order as to costs.